

**DEPARTMENT OF WATER RESOURCES**

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FEB 01 2011

Ms. Terry Macaulay  
Delta Stewardship Council  
980 Ninth Street, Suite 1500  
Sacramento, California 95814

Notice of Preparation (NOP) of Draft Environmental Impact Report (DEIR) for Delta Plan

Dear Ms. Macaulay:

Thank you for providing us an opportunity to provide feedback and comments on the preparation of the Delta Plan DEIR. I appreciate the opportunity to work collaboratively with you on this important project. Attached for your consideration are comments on the NOP from Department of Water Resources (DWR) staff.

We are committed to continue working with you, and to provide you with additional information, as you develop the Delta Plan. Please let me know if there is anything we can do to help facilitate continued collaboration and communication between our staffs.

If you have any questions or need further assistance regarding the review of the NOP, please contact Ted Frink, FloodSAFE Environmental Enhancement and Statewide Resources Office at (916) 651-9618 or at [tfrink@water.ca.gov](mailto:tfrink@water.ca.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Mark W. Cowin".

Mark W. Cowin  
Director

## **Attachment**

### **Notice of Preparation of Draft Environmental Impact Report for Delta Plan**

#### **California Department of Water Resources Staff Comments**

The Department of Water Resources (DWR) staff has reviewed the Notice of Preparation (NOP) for the Draft Environmental Impact Report for the Delta Plan and offers these review comments for your consideration. Under the California Environmental Quality Act (CEQA), DWR may be either a lead or a responsible agency related to implementation actions of the Delta Plan due to multiple programs and legislative authorities given to DWR that are potentially influenced under the scope of the plan. It is important that there be close coordination during the development of the environmental documents. Some specific issues identified by DWR are included here for your use and consideration.

The NOP provides a very general description of what would be addressed by the Draft Environmental Impact Report. The broad scope of the Delta Plan creates a challenge to fully understand the potential impacts to the environmental conditions of the area of consideration under the plan. The NOP states that the "Council intends to prepare an EIR for this project." However, line 13 on page 24 states that "due to the broad nature of the strategies that will be considered" the Delta Plan EIR will actually be a program EIR. In order to facilitate public and agency review, the fact that the Council will prepare a program EIR should be specified in all subsequent documents.

The NOP mentions that concurrent planning efforts will be reviewed during preparation of the plan. It is not clear whether documents for these efforts, and perhaps other documents, will be incorporated by reference in the EIR. In order to facilitate public and agency review, it would be helpful to follow CEQA Guidelines Section 15150. In part, this section states "Where an EIR or Negative Declaration uses incorporation by reference, the incorporated part of the referenced document shall be briefly summarized where possible or briefly described if the data or information cannot be summarized. The relationship between the incorporated part of the referenced document and the EIR shall be described."

In reviewing other planning documents relevant to the Delta Plan and EIR, it is recommended that the following be considered:

- Delta Habitat Conservation and Conveyance Program (DHCCP) documents, as they become available;
- Documents and studies associated with the San Joaquin River Restoration Program;
- The Yolo County HCP/NCCP;
- The Central Valley Flood Protection Plan (CVFPP)
- The California Water Plan 2009 Update; and
- The Delta Protection Commission's Economic Sustainability Plan

The NOP states that the Program EIR will be prepared "to the extent possible in a manner to facilitate future evaluation under NEPA." CEQA Guidelines Section 15222



notes, "to avoid the need for the federal agency to prepare a separate document for the same project, the Lead Agency must involve the federal agency in the preparation of the joint document. This involvement is necessary because federal law generally prohibits a federal agency from using an EIR prepared by a state agency unless the federal agency was involved in the preparation of the document." Since NEPA guidelines vary among federal agencies, we recommend that the Council coordinate as soon as possible with any federal agencies that may need to rely on the Program EIR.

In the evaluation of proposed projects and alternatives for both performance and impacts, baseline/future without project conditions should include the likely impacts of climate change. Particularly with respect to water resources, use of historical statistics alone to develop simulations of future hydrologic conditions would inadequately describe potential future conditions and would likely lead to environmental effects being underestimated. In addition, project performance would also likely be misrepresented if baseline/future without project conditions fails to adequately consider the potential impacts of climate change.

When discussing development, use, and conveyance of energy resources in the Delta, the climate change analysis should include the potential increase in energy demands due to potentially higher average annual temperatures in the future. Also, the potential increased risk to energy infrastructure due to inundation or damage from extreme storm events and potential sea level rise should be assessed.

There should be adequate consideration given to assessing current and future potential land uses or changes, and how they may be impacted by climate change, sea level rise, and greater storm variability. A discussion of the potential effects of climate change on transportation and traffic with any modification of waterways or land uses should also be provided. When discussing the ability to fund and provide public services consider the potential increase in need for services due to the impacts of climate change (e.g., displacement, disease, etc).

The EIR should also discuss how agricultural practices could change under various climate change scenarios and the impacts those changes could have on the agricultural community (loss of crop land, change in types of crops, economic losses, etc.), water demands, and regional water quality goals. We recommend adding analyses of sea level rise and associated water quality impacts to future risk assessments.

Given limited funding, there should be prioritization of investments that emphasize long term ecosystem restoration and water supply reliability as the co-equal goals. Any investments to address other objectives need to be considered in light of how the two co-equal goals are expected to play out on the Delta landscape over time, to ensure such investment is not "wasted" over the longer term as the climate and sea level continues to change.

In the discussion regarding the expansion of statewide storage programs, any analysis of new or altered storage programs needs to consider associated flood management operations and planning such as the ongoing Central Valley Flood Protection Program (CVFPP), which will have a plan document developed by January 2012.

Additionally, DWR's System Reoperation Study Program is conducting studies to identify potential new operation strategies for the reoperation of the State's flood protection and water supply systems to achieve the following goals: integration of flood

protection and water supply systems to increase water supply reliability and flood protection, improve water quality, and provide for ecosystem protection and restoration; reoperation of existing reservoirs, flood facilities, and other water facilities in conjunction with groundwater storage to improve water supply reliability, flood control, and ecosystem protection and to reduce groundwater overdraft; promotion of more effective groundwater management and protection and increased integration of groundwater and surface water resource uses; improvement of existing water conveyance systems to increase water supply reliability, improve water quality, expand flood protection, and protect and restore ecosystems.

Finally, there are a few specific factual editorial changes to the NOP we would like to recommend. First, several places within the NOP make mention of the Bay Delta Conservation Program. The correct term is the Bay Delta Conservation Plan. Second, under the listing of State Water Project Water Contractors, the list is incorrect in many places. The State Water Contractors as an entity should not be listed, since the water agencies making up the State Water Contractors are named individually and DWR does not contract with the State Water Contractors organization. Similarly, we recommend omitting reference to the Joint Water District Board because DWR only has settlement contracts with the individual water agencies making up the Joint Water District Board, rather than the Joint Board itself.